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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,741	10/20/2003	Yukio Umemura	062709-0114	9262
23428 7590 10/02/2008 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				
EXAMINER				
WEINSTEIN, LEONARD J				
ART UNIT		PAPER NUMBER		
3746				
MAIL DATE		DELIVERY MODE		
10/02/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/687,741

**Applicant(s)**

UMEMURA, YUKIO

**Examiner**

LEONARD J. WEINSTEIN

**Art Unit**

3746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1.5-9.11 and 12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1.5-9.11 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date 6/30/08
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This office action is in response to the amendment of June 30, 2008. In making the below rejections and/or objections the examiner has considered and addressed each of the applicant's arguments.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 5-9, and 11-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. The claim is rejected under 35 U.S.C. 112, first and second paragraphs, as the claimed invention is not described in such full, clear, concise and exact terms as to enable any person skilled in the art to make and use the same, and fails to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The examiner notes the applicant's attempts to clarify the language in claim. It is determined however that the language of "the other of the driven member and the drive member, the other remaining engaged with link" is unclear and ambiguous. The examiner notes also notes that limitations do not make it adequately clear which of a driven or drive member a resilient locking member is on. The applicant has disclosed two embodiments with figures 5 and 9. In the embodiment of figure 5 the resilient locking member is affixed to the driven member (4, 5). The driven member (4,5) in figure 5 also the same member the link 12A

is fixed to via protrusion element 6. In the embodiment of figure 8 (and 9) the resilient locking member is affixed to the drive member (7, 10). In this embodiment the link 12B is affixed to the drive member (7,10) via pin element 13. Thus the resilient locking member is always affixed to the same one of the drive or driven member which the link 12 is permanently affixed. This is not reflected by the claim language where one of ordinary skill in that are would ascertain that the locking member could be on either of a drive or driven member regardless was which of those members the link is permanently affixed to. The examiner declines permit a limitation to be allowed which includes subject which has not been disclosed.

The examiner notes that the new limitations do not reflect the language proposed in the prior office action. Although applicant was certainly not required to incorporate the examiner suggestion the examiner notes that the amendments to claim 1 still leave limitations container therein to be ambiguous and unclear. The examiner has proposed an amendment to claim 1 and suggested claim language for a new independent claim that splits up the subject matter directed to the individual embodiments.

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1, 5-9, and 11-12 have been considered but are moot in view of the new ground(s) of rejection. The amendments to claim 1 fail to clearly and concisely claim the subject matter which is disclosed. A proposed amendment follows that the examiner advises puts the application in condition for allowance.

### **EXAMINER'S AMENDMENT**

6. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided

by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

**[Claim 1]** A power transmission for a compressor, comprising a driven member rotatable by an engine;

a drive member rotatable coaxially with the driven member to rotate a drive shaft of a compressor for regulating displacement of the compressor;

a link interconnecting the driven member and the drive member with each other in a crossing direction relative to the drive shaft, the link being disengageable from the drive member;

and a first engagement member fixed to the drive member;

a resilient locking member provided in the driven member, the resilient locking member configured to lock with the link disengaged from the drive member by slidably pressing against the driven member;

wherein said link has a hole at a first end portion thereof and an open end slot at the other a second end portion thereof which releasably receives said first engagement member, the second end portion being opposite to the first end portion; and

wherein said link is rotatably mounted to the driven member so as to remain engaged with the driven member.

**[Claim 14] (New Proposed)** A power transmission for a compressor, comprising a driven member rotatable by an engine;

a drive member rotatable coaxially with the driven member to rotate a drive shaft of a compressor for regulating displacement of the compressor;

a link interconnecting the driven member and the drive member with each other in a crossing direction relative to the drive shaft, the link being disengageable from the driven member;

and a first engagement member fixed to the driven member;

a resilient locking member provided in the drive member, the resilient locking member configured to lock with the link disengaged from the driven member by slidably pressing against the drive member;

wherein said link has a hole at a first end portion thereof and an open end slot at the other a second end portion thereof which releasably receives said first engagement member, the second end portion being opposite to the first end portion; and

wherein said link is rotatably mounted to the drive member so as to remain engaged with the drive member.

The examiner notes that the limitations of claim 1 are directed to the invention disclosed in the embodiment of figure 3. Likewise the newly proposed claim 14 is directed toward the embodiment shown in figure 8. The proposed amendments to claim 1 are not propounded by the examiner to resolve any incongruence that may arise with any limitations in any dependent claims which are directed to subject matter of the

embodiment in figure 8. If the applicant chooses to accept the examiner's amendment then the applicant is expected to ensure that any limitations in any of the dependent claims are clearly directed toward the subject matter that is disclosed.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **LEONARD J. WEINSTEIN** whose telephone number is (571)272-9961. The examiner can normally be reached on Monday - Thursday 7:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on (571) 272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Devon C Kramer/  
Supervisory Patent Examiner, Art  
Unit 3746

/Leonard J Weinstein/  
Examiner, Art Unit 3746